

HOUSE BILL No. 2487

By Representatives Hoheisel, Alcalá, Probst and Proctor

1-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to controlled substances; providing immunity from prosecution for
3 certain drug crimes when persons seek or provide medical assistance
4 related to the use of a controlled substance.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) A law enforcement officer shall not take a person into
8 custody based solely on the commission of an offense described in
9 subsection (b) if the law enforcement officer, after making a reasonable
10 determination and considering the facts and surrounding circumstances,
11 reasonably believes that the person:

12 (1) (A) Initiated contact with a law enforcement officer, law
13 enforcement agency or emergency medical services and requested medical
14 assistance on the person's own behalf because the person reasonably
15 believed they needed medical assistance as a result of the use of a
16 controlled substance; and

17 (B) cooperated with law enforcement officers and emergency medical
18 services personnel in providing such medical assistance;

19 (2) (A) was one of not more than four persons who rendered aid to
20 another person who reasonably appeared to need medical assistance as a
21 result of the use of a controlled substance or initiated contact with a law
22 enforcement officer, law enforcement agency or emergency medical
23 services and requested medical assistance for another person who
24 reasonably appeared to need medical assistance as a result of the use of a
25 controlled substance;

26 (B) provided such person's full name and any other relevant
27 information requested by law enforcement or emergency medical services;

28 (C) remained at the scene with the person who reasonably appeared
29 to need medical assistance until emergency medical services personnel and
30 law enforcement officers arrived; and

31 (D) cooperated with emergency medical services personnel and law
32 enforcement officers in providing such medical assistance; or

33 (3) (A) was the person who reasonably appeared to need medical
34 assistance as a result of the use of a controlled substance as described in
35 subsection (a)(2)(A); and

36 (B) cooperated with emergency medical services personnel and law

1 enforcement officers in providing such medical assistance.

2 (b) (1) Except as provided in paragraph (2), each person who meets
3 the criteria in subsection (a) is immune from criminal prosecution for a
4 violation of K.S.A. 21-5706 or 21-5709(b), and amendments thereto, and
5 any city ordinance or county resolution prohibiting the acts prohibited by
6 K.S.A. 21-5706 or 21-5709(b), and amendments thereto.

7 (2) No person is immune from criminal prosecution as provided in
8 paragraph (1) if the quantity of controlled substances found at the scene of
9 the encounter with law enforcement would be sufficient to create a
10 rebuttable presumption of an intent to distribute as described in K.S.A. 21-
11 5705(e), and amendments thereto.

12 (c) The provisions of this section shall not apply to a person seeking
13 medical assistance during the course of the execution of an arrest warrant
14 or search warrant or a lawful search.

15 (d) Nothing in this section shall be construed to preclude a person
16 who is immune from criminal prosecution pursuant to this section from
17 being prosecuted based on evidence obtained from an independent source.

18 (e) A person shall not be allowed to initiate or maintain an action
19 against a law enforcement officer, or the officer's employer, based on the
20 officer's compliance or failure to comply with this section. Except in cases
21 of reckless or intentional misconduct, a law enforcement officer shall be
22 immune from liability for arresting a person who is later determined to be
23 immune from prosecution pursuant to this section.

24 (f) As used in this section:

25 (1) "Controlled substance" means the same as defined in K.S.A. 21-
26 5701, and amendments thereto; and

27 (2) "law enforcement officer" means the same as defined in K.S.A.
28 21-5111, and amendments thereto.

29 Sec. 2. This act shall take effect and be in force from and after its
30 publication in the statute book.